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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,991	10/15/2003	Robert Cantwell	NPUS-P006	7432
32986	7590	09/10/2004	EXAMINER	
IPSG, P.C. P.O. BOX 700640 SAN JOSE, CA 95170-0640			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/686,991	Applicant(s) CANTWELL ET AL.	
	Examiner Harry A. Grosso	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-8 is/are rejected.
- 7) ☐ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodosh et al (6,116,045).

3. Regarding claim 1, Hodosh et al discloses an insulated container (column 2, lines 50-53) with a top panel (cover), a bottom panel, and sidewalls (column 7, lines 7-9 and Figure 1). The top panel has a receptacle which is a beverage holder that is collapsible and, thus, expandable (column 2 lines 55-60 and column 3, lines 12-13).

4. Regarding claim 3, Hodosh et al discloses the container of claim 1 and further discloses that the collapsible beverage holder extends into the container when expanded (holder element 152 in Figures 7a and 7b).

5. Regarding claim 6, Hodosh et al discloses the container of claim 1 and further discloses that the beverage holder is of an extending construction in that it folds up against the inner surface of the top panel when collapsed and is extended back downward into the container when expanded (Figures 7a and 7b).

6. Regarding claim 7, Hodosh et al discloses the container of claim 1 and further discloses that the body and top panel of the container are soft-sided (column 7, lines 34-37).

7. Regarding claim 8, Hodosh et al discloses the container of claim 1 and further discloses that the top panel is attached to the body of the container by a hinge and a zipper (column 7 lines 42-45 and lines 53-55).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodosh et al in view of Spykerman (5,511,755). Hodosh et al teaches the container of claim 1 with the beverage holder coupled to the top panel but Hodosh does not disclose that the beverage holder can be capable of expanding outward from the top panel. Spykerman discloses a beverage holder mounted in a flat panel that is in a lowered position for larger containers and can be expanded upward to handle taller or smaller diameter containers (Figures 2 and 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the beverage holder disclosed by Spykerman in the top panel of the container of Hodosh et al if an outwardly expanding beverage holder was desired so it could accommodate larger containers in one position or be expanded upward to handle taller or smaller diameter containers.

Allowable Subject Matter

10. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hodosh et al (6,481,239), Hodosh et al (6,363,739), Rausch (5,842,571), Graham (5,350,081) and Shink (5,505,307)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 703-305-0473. The examiner can normally be reached on Monday through Thursday and alternate Fridays from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Castellano
Primary Examiner